

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MARK L. WILLIAMS,

Petitioner,

07-CV-6046-CJS

-vs-

JAMES T. CONWAY, Superintendent,

Respondent.

DECISION and ORDER
ADOPTING REPORT
and
RECOMMENDATION

On January 9, 2007, Mark L. Williams ("Petitioner") filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging his November 4, 2002, New York state court conviction and sentence. The Court referred the case to the Honorable Victor E. Bianchini, United States Magistrate Judge, for a report and recommendation pursuant to 28 U.S.C. § 636(B)(1) (2005). On October 31, 2008, Judge Bianchini filed his Report and Recommendation (Docket No. 18). The Report and Recommendation found that Petitioner's application was untimely under 28 U.S.C. § 2244(d)(1), and recommended that it be dismissed. Judge Bianchini directed that any objections to the Report and Recommendation be filed within ten days. On November 5, 2008, Petitioner requested a 30-day extension to file objections. On December 1, 2008, Judge Bianchini granted Petitioner's request, and gave him until December 31, 2008, to file objections. Petitioner did not file objections. No objections having been filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1)(C), the Court accepts the Report and Recommendation in its entirety, and, for the reasons stated in the Report and

Recommendation, this action is dismissed. Moreover, Petitioner's Motion for a Stay (Docket No. 14) is denied as moot.

Pursuant to 28 U.S.C. § 2253, the Court declines to issue a certificate of appealability, since Petitioner has not made a substantial showing of the denial of a constitutional right.

Petitioner must file any notice of appeal with the Clerk's Office, United States District Court, Western District of New York, within thirty (30) days of the date of judgment in this action. The Court hereby certifies, pursuant to 28 U.S.C. § 1915(a), that any appeal from this Order would not be taken in good faith and leave to appeal to the Court of Appeals as a poor person is denied. *Coppedge v. United States*, 369 U.S. 438 (1962). Further requests to proceed on appeal *in forma pauperis* should be directed on motion to the United States Court of Appeals for the Second Circuit in accordance with Rule 24 of the Federal Rules of Appellate Procedure.

IT IS SO ORDERED.

Dated: February 4, 2009
Rochester, New York

ENTER:

/s/ Charles J. Siragusa
Charles J. Siragusa
United States District Judge